

## **Remarks**

Applicants have received and carefully reviewed the Office Action of October 19, 2007, in which claims 1-43 are pending, claims 17-21 and 38-43 are withdrawn from consideration and claims 1-16 and 22-37 are rejected. Favorable consideration is requested in light of the claim amendments and following comments.

### ***Claim Rejections—35 U.S.C. § 112***

Claims 26-28 were rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants have amended claims 1, 26 and 27 in response to the points raised in paragraph 7 of the Office Action and respectfully submit that claims 26-28 now comply with 35 U.S.C. § 112.

### ***Claim Rejections—35 U.S.C. § 103***

Claims 1-3, 5-16 and 22-37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cryer et al., U.S. Patent No. 6,290,710 (hereinafter “Cryer”). Applicants respectfully traverse the rejection.

Amended claim 1 now recites “the embolic protection filter is collapsible at least in part within the distal end of the elongate tubular member.” In Cryer, the embolic protection filter is attached to the outside of the elongate tubular member 32, making it impossible to collapse the filter within it. Thus the proposed modification of turning the proximal sheath of Cryer into a distal sheath would not result in the claimed invention. For at least this reason, applicants submit that claim 1 is in condition for allowance over Cryer. As claims 2-3, 5-16 and 22-36 depend from claim 1 and contain additional elements, applicants submit that these claims are in condition for allowance as well. As claim 37 contains similar limitations to those discussed above with respect to claim 1, applicants submit that this claim is also in condition for allowance.

Further, claim 9 recites “wherein the guidewire lumen of said guide tip includes a curved portion.” Such an element is not disclosed by Cryer. The Examiner argues because the lumen of Cryer has a curved cross-sectional profile that Cryer discloses a lumen having a curved portion. However, this is not how those of skill in the art use the

term. When the term “curved” is used to describe a lumen or a portion thereof, the cross-sectional profile is not what is being described. For example, when one says that a pipe has a curved portion, one is not referring to the fact that the pipe is round; one is referring to the fact that the pipe has a bend. This is the way those of skill in the art understand the term and the broadest reasonable interpretation that the Examiner may adopt is limited by this understanding under MPEP 2111. Because Cryer does not disclose a guidewire lumen in the guide tip that includes a curved portion, applicants respectfully submit that claim 9 is allowable for this additional reason.

Further, claim 12 recites “wherein the distal end of said elongated wire includes attachment means configured to provide an interference fit with the joint on the proximal portion of said guide tip.” The Examiner argues that Figure 6 discloses an attachment means and applicants are not disposed to argue with this statement. What Figure 6 is silent about, and so far as applicants can tell, Cryer as a whole is silent about, is whether this attachment means is configured to provide an interference fit. Nothing in Cryer suggests that an interference fit is contemplated. Because Cryer does not disclose an attachment means configured to provide an interference fit, applicants respectfully submit that claim 12 is further allowable for this additional reason.

Further, claim 23 recites “wherein the distal sheath includes one or more skived regions.” The Examiner points generally to figures 7 and 8 of Cryer as disclosing this feature. However, applicants can find nothing in these figures which suggest a skived region. A skived region is a region where thin layers of material have been removed or pared away. Figures 7 and 8 simply do not teach such a feature. Because Cryer does not disclose a skived region, applicants respectfully submit that claim 23 and claim 24, which depends therefrom, are allowable for this additional reason.

Further, claim 28 recites “wherein the second port is located proximal the first port.” The Examiner argues that it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to have the second port be located proximally of the first port since the recited limitation does not provide an advantage, is used for a particular purpose, or solves a stated problem. To the contrary, such a feature permits the use of the filter system in a single operator exchange configuration, where only a distal portion of the tubular member needs to be slid over the

guidewire. This, by the way, is in contrast to Cryer, which teaches that its “device has an over-the-wire configuration which obviates the need to change out guidewires during the procedure.” Col. 2, ll. 63-64. Because the feature claimed in claim 28 provides an advantage, claim 28 is not an obvious design choice over Cryer and is allowable over Cryer for this additional reason.

Further, claim 30 recites “wherein the first exit port is located proximal the second exit port.” This feature reduces the length of the guidewire lumen in the tubular member to thereby reduce the frictional force that resists advancing the tubular member over the guidewire. This feature also reduces the distal profile of the tubular member. Because Cryer does not disclose this feature, applicants submit that claim 30 is allowable over Cryer for these additional reasons.

Further, claim 32 recites “wherein said alignment means comprises a key disposed within the distal sheath adapted to slide within a corresponding groove formed on the proximal portion of said guide tip.” The Examiner argues that wires 38 and 40 serve as the alignments means. These wires are not a key and groove. The key and groove arrangement permit the distal sheath and the guide tip to be aligned *prior* to advancing the assembly over a guidewire. Because Cryer does not disclose the elements of claim 32, applicants submit that this claim is allowable for these additional reasons.

Further, Claim 34 recites “wherein the multiple-lumen retrieval sheath includes a first lumen adapted to receive the elongated wire, embolic protection filter, and the proximal portion of the guide tip, and a second lumen adapted to receive a second guidewire.” The Examiner argues that “the modified sheath along with the elongated member with multiple lumens is capable of acting as a retrieval sheath.” However, two separate elements are not a single multiple-lumen retrieval sheath. Cryer does not disclose a multiple-lumen tubular member where one lumen is adapted to receive a filter, and the proposed modifications do not create such a tubular member. Because Cryer does not disclose the elements of claim 34, applicants submit that claim 34 is allowable over Cryer for these additional reasons.

Further, claim 35 recites “further comprising a longitudinal slit extending along at least a portion of the second lumen.” The Examiner does not allege that Cryer teaches such a slit, nor can applicants find reference to such a slit in Cryer. Because Cryer does

not teach the elements of claim 35, applicants submit that this claim is further allowable for these additional reasons.

Further claim 36 recites “wherein the multiple-lumen retrieval sheath is configured for single operator exchange in the body.” Again, the Examiner does not allege that Cryer contains such a feature, nor can applicants find reference to such a feature. Because Cryer does not teach the elements of claim 36, applicants submit that this claim is further allowable for these additional reasons.

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cryer in view of Khosravi et al., U.S. Patent No. 6,371,970. Applicants respectfully disagree. For at least the reason that claim 4 depends from claim 1, which applicants submit is allowable, and contains additional elements, applicants submit that claim 4 is likewise in condition for allowance.

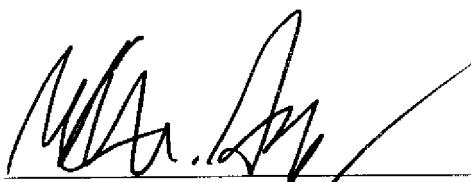
#### *New Claims*

Claims 44-46 were added and recite with greater specificity certain features of the distal tip, features not disclosed by Cryer or Khosravi. For at least the reason that these claims depend from claim 1 and contain additional elements, applicants respectfully submit that these claims are in condition for allowance as well.

Reexamination and reconsideration of all pending claims is respectfully requested. It is respectfully submitted that the claims are now in condition for allowance, and issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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